

ARTICLE APPEARED  
ON PAGE A-1

WASHINGTON POST  
7 January 1985

# Israeli Review Said to Set Back Time's Defense

By Herbert H. Denton  
Washington Post Staff Writer

NEW YORK, Jan. 7 (Monday)—A reexamination Sunday of secret Israeli documents on the 1982 Beirut refugee-camp massacre found no basis for the part of a Time magazine article that led former defense minister Ariel Sharon to file a \$50 million libel suit against the magazine, according to Israeli Radio and sources here.

The finding appeared to be a setback for Time's defense only days before the case is scheduled to go to a jury. The controversial paragraph suggested that the documents contained information that Sharon had known that the killings of hundreds of Palestinians would occur and that he acquiesced in them.

Retired Israeli chief justice Yitzhak Kahan, who headed the original Israeli investigation into the killings, reviewed key classified documents related to Sharon's role and responded negatively to three questions submitted by the New York federal judge presiding over the libel trial here, according to sources and the broadcast.

Two Israeli lawyers, one representing Time and the other Sharon, were permitted to inspect the classified papers as Kahan reviewed them.

According to Israeli Radio, Time's lawyer in Israel, Haim Zadok, "expressed reservations" about Kahan's answers, but his concerns were not made public.

Sources close to Time, according to the broadcast, also complained that the government had not allowed Zadok to fully inspect

two of the documents it had promised. In New York, lawyers for both sides also said they did not know how the review's results would be presented to the jury.

Kahan's responses were telexed here late Sunday to the lawyers and U.S. District Court Judge Abraham D. Sofaer shortly after the examination was completed. The Israeli government released Kahan's letter early this morning.

A Time spokesman said Sunday: "This information was intended for release in federal court, if anywhere. Now that the Israeli government, contrary to their original agreement, has announced that they will release it imminently, we have to consider the situation further before commenting."

The Israeli commission that investigated the massacre had concluded that Sharon bore "indirect responsibility" for the killings because he failed to foresee their possibility when he allowed Lebanese Christian militiamen into the refugee camps after Israel's invasion of West Beirut in September 1982. However, the commission absolved Sharon and other top Israeli officials of direct responsibility or advance knowledge of the massacre.

The Time story had suggested

deeper involvement by Sharon. One paragraph said the commission's report included a confidential appendix containing details of a conversation Sharon had with Lebanese Christian leaders the day before the killings. According to the magazine, Sharon allegedly discussed the need to take revenge for the assassination a day earlier of President-elect Bashir Gemayel, the militiamen's commander.

Sharon denied the report, which he called blood libel, and sued Time.

Late last month an agreement was reached with the Israeli government for Kahan to reexamine the appendix and other information the commission had collected.

The questions the court had sent to Israel dealt with whether Sharon had discussed with Bashir Gemayel's family the need to avenge his death; whether Sharon had conversations with the Gemayels or other Christian leaders in which either mentioned the need for revenge; and whether the documents contained any evidence or suggestion that Sharon knew in advance that the militiamen would massacre civilians if they went into the camps unaccompanied by Israeli soldiers.

Kahan answered negatively to all three, the broadcast and sources said.

ARTICLE APPEARED  
ON PAGE 42

WASHINGTON POST  
2 January 1985

# Israel to Give Time Access To Secret Data on Massacres

## *Decision May Resolve Questions in Sharon Lawsuit*

By Herbert H. Denton  
Washington Post Staff Writer

The Israeli government has agreed to allow representatives of Time magazine and former defense minister Ariel Sharon to examine several secret government documents related to the 1982 massacres of hundreds of Palestinians at two Beirut refugee camps.

The cabinet's unexpected decision on Monday, which was ratified late yesterday by a committee of the Knesset, Israel's parliament, should resolve key issues in dispute in Sharon's \$50 million libel lawsuit against Time.

During the six-week trial in New York, Sharon has denied categorically a Time report suggesting that the classified papers document his foreknowledge of and acquiescence in the killings by Israeli-backed Lebanese Christian Phalangists. Time reported that Sharon had discussed with the Phalangists the need to take revenge the day before the massacres began and that details of the conversation are in the papers.

Time editors and the magazine's Jerusalem correspondent David Halevy have defended the accuracy of the report in testimony during the trial but the magazine's lawyers say that Time will print a correction or retraction if proved wrong.

Halevy testified that he had based his reporting on leads from confidential sources and his own "analysis" but had not seen the secret documents. His superiors at the magazine acknowledged when questioned on the witness stand that they did not know who his sources were.

Citing national security and foreign policy concerns, the Israeli cabinet and courts had rejected Time's request for access to a broad range of secret testimony and documents gathered by an Israeli commission, called the Kahan Commission, during its investigation of the massacres.

But on Monday night, a four-member ministerial committee of the Israeli cabinet headed by Prime Minister Shimon Peres agreed to a compromise formula proposed by the U.S. judge in the trial, Abraham D. Sofaer. The arrangement was approved 18 to 2 yesterday by a parliamentary committee.

The cabinet decision allows perusal of a classified appendix to the Kahan Commission report and notes of meetings Sharon had with Phalangist leaders before the massacres.

Two Israeli lawyers, one for Time and one for Sharon, will read the material in the presence of Justice Yitzhak Kahan, who headed the three-member commission that investigated the massacres.

Kahan will respond in writing to three questions by the U.S. court:

- Do the documents show or hint that Sharon in conversation with Phalangist leaders discussed avenging the murder of Phalangist militia commander Bashir Gemayel, who was assassinated two days before the massacres began?

- Do they indicate that Sharon held a conversation with a Phalangist in which either of them mentioned the need for revenge?

- Do they indicate that Sharon knew in advance that the Phalangists would massacre civilians if they entered the refugee camps unaccompanied by Israeli troops?

Stuart Gold, one of Time's New York lawyers, said his understanding of the cabinet decision is that the Israeli lawyers examining the documents will be pledged not to reveal the contents of the documents to their American associates but will be allowed to say whether they disagree with Kahan's answers to the questions.

While acknowledging that the review will more than likely settle the question of whether the Time report was accurate, Gold said the magazine still felt it should be entitled to access to more documents than those included in the compromise.

"We want everything," Gold said. "We want all the documents Sharon gave the commission."

Sharon's lead New York attorney, Milton S. Gould, countered in a separate telephone interview, "They can go on asking. This is what we are going to get."

Gould argued that Time, in fact, really did not want to see the classified papers. "They know there's nothing there," he said.

The Kahan Commission found that Sharon bore "indirect responsibility" for the massacres and recommended his ouster as defense minister. But the commission absolved him and other top Israeli civilian and

military officials of either encouraging or knowing beforehand that the killings would occur.

Sharon still disagrees with the commission's findings, which he once bitterly complained had stamped the "mark of Cain" on him. He contended in testimony that the Time report was a "blood libel" tantamount to calling him a mass murderer and had brought on "a new wave of hatred" against him.

The trial is to resume today in the U.S. courthouse in Lower Manhattan after an 11-day recess.

Just before the break, Time's lawyers surprised courtroom observers, and Sharon's attorneys, with a surprise announcement that they would rest their case without calling a single witness. Although Sharon's lawyers joked afterward that Time had done so because they had no case, the tactical maneuver clearly concerned them.